

AMENDED IN SENATE JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 40

Introduced by Assembly Member Fuentes

December 1, 2008

~~An act to amend Section 728.1 of the Public Utilities Code, relating to electricity. An act to add Section 13552.7 to the Water Code, relating to water.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as amended, Fuentes. ~~Electricity: rates: plant held for future use account.~~ *Water: reasonable use: electrical generation facilities.*

The California Constitution provides that the right to water shall be limited to that amount of water that is reasonably required for the beneficial use to be served. Existing law declares that the use of potable domestic water for cooling towers is a waste or an unreasonable use of water if recycled water is available and other requirements are met.

The existing renewables portfolio standard program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.

This bill would declare that the use of water for cooling or any other purpose in an eligible renewable energy resource is a beneficial use of water and that the use of potable domestic water for cooling towers that are part of a generating system that is an eligible renewable energy resource is a reasonable use of water if certain requirements are met.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law authorizes the commission to establish rules, and prescribe a uniform system of accounts, for all public utilities. Pursuant to this authority, the commission has adopted a uniform system of accounts for public utilities and licensees, including an account for plant held for future use, and established guidelines for the account. Existing law requires the commission to review the status of all property of a gas or electrical corporation carried in its plant held for future use account at least once every 3 years or during a ratemaking proceeding, for purposes of fixing the rates of the gas or electrical corporation, and prescribes the manner in which gain accruing from the sale of property held in the account is to be allocated between the utility and ratepayers.~~

~~This bill would make a nonsubstantive clarifying change to existing law relative to how gain accruing from the sale of property carried in the plant held for future use account is to be allocated between the gas or electrical corporation and ratepayers.~~

~~Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to adopt a strategic plan for the state's electric transmission grid and requires that the plan identify and recommend actions required to implement investments needed to ensure reliability, relieve congestion, and to meet future growth in load and generation. Existing law authorizes the Energy Commission to designate a transmission corridor zone on its own motion or by application of a person that plans to construct a high-voltage electric transmission line within the state and provides that the designation of a transmission corridor zone shall serve to identify a feasible corridor where a future transmission line can be built that is consistent with the state's needs and objectives as set forth in the strategic plan adopted by the Energy Commission.~~

~~This bill would require the commission to review its guidelines for the plant held for future use account and determine whether it needs to open a proceeding to adjust the time period allowed for a property to be held in the account. The bill would require the commission to consider whether it should amend the guidelines, or add a separate guideline to allow a distinct time period for real property located within a transmission corridor zone designated by the Energy Commission. The bill would require that if the commission amends the existing~~

~~guidelines, or adds a separate guideline, pursuant to the bill's requirements, that the commission ensure that any gains or losses from the sale or reassignment of any interest in real property acquired by the electrical corporation that is subject to the amended or new guideline, are allocated between customers and shareholders proportionately to the risks involved.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 13552.7 is added to the Water Code, to
2 read:
3 13552.7. (a) The Legislature finds and declares that it is in
4 the interest of the state to construct generating facilities that are
5 eligible renewable energy resources, as described in Article 16
6 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of
7 Division 1 of the Public Utilities Code.
8 (b) The use of water for cooling or any other purpose in an
9 eligible renewable energy resource is a beneficial use of water.
10 (c) Notwithstanding Section 13552.6, the use of potable domestic
11 water for cooling towers that are part of a generating facility that
12 is an eligible renewable energy resource is a reasonable use of
13 water within the meaning of Section 2 of Article X of the California
14 Constitution if all of the following requirements are met:
15 (1) The generating facility is an eligible renewable energy
16 resource that meets the requirements of Article 16 (commencing
17 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
18 Public Utilities Code.
19 (2) The facility would not have a significant effect on the
20 environment, as defined in Section 21068 of the Public Resources
21 Code, to groundwater resources after mitigation measures are
22 implemented. For purposes of this paragraph, a significant effect
23 on the environment with respect to groundwater resources includes
24 a water use that would cause the production rate of preexisting
25 nearby wells to drop to a level that would not support existing
26 land uses or planned uses for which permits have been granted.
27 (3) The facility institutes a water monitoring program to
28 measure the impacts of the eligible renewable energy resource on
29 nearby wells and provides for mitigation or compensation for

1 additional pumping costs or to increase the depth of wells that
2 experience a reduction in water levels due to the use of
3 groundwater by the eligible renewable energy resource, such that
4 the wells cannot be used for their current purpose.

5 (4) The State Energy Resources Conservation and Development
6 Commission or the state board, after notice to the public and a
7 public hearing, determines that the use meets the requirements of
8 paragraphs (1), (2), and (3).

9 ~~SECTION 1. Section 728.1 of the Public Utilities Code is~~
10 ~~amended to read:~~

11 ~~728.1. (a) For purposes of this section, “plant held for future~~
12 ~~use account” means account number 105 of the Uniform System~~
13 ~~of Accounts Prescribed for Public Utilities and Licensees, as~~
14 ~~adopted by the commission:~~

15 ~~(b) The commission shall review the status of all property owned~~
16 ~~by a gas or electrical corporation and carried within the plant held~~
17 ~~for future use account at least once every three years or during a~~
18 ~~proceeding conducted pursuant to Section 728, for the purpose of~~
19 ~~determining and fixing the rates of that gas or electrical~~
20 ~~corporation, as determined by the commission:~~

21 ~~(c) If a gas or electrical corporation sells property which was~~
22 ~~carried within the plant held for future use account and which was~~
23 ~~included in determining the rates of the corporation, the~~
24 ~~commission shall determine what portion of any gains from the~~
25 ~~sale shall be allocated to the customers of the corporation in a~~
26 ~~manner consistent with the procedures specified in account number~~
27 ~~105 of the Uniform System of Accounts Prescribed for Public~~
28 ~~Utilities and Licensees. The portion of the gains allocated to~~
29 ~~customers shall not be less than the amount the corporation has~~
30 ~~recovered through rates for the carrying costs and other expenses~~
31 ~~of the property during the period it was carried in the plant held~~
32 ~~for future use account, and shall not exceed the gain on the sale,~~
33 ~~net of any tax, resulting from the sale:~~

34 ~~SEC. 2. The commission shall review its Plant Held for Future~~
35 ~~Use Guidelines and determine whether it needs to open a~~
36 ~~proceeding to adjust the time period allowed for a property to be~~
37 ~~carried in the plant held for future use account. The commission~~
38 ~~shall consider whether it should amend the guidelines, or add a~~
39 ~~separate guideline to allow a distinct time period for real property~~
40 ~~located within a transmission corridor zone designated by the State~~

1 ~~Energy Resources Conservation and Development Commission~~
2 ~~pursuant to Chapter 4.3 (commencing with Section 25330) of~~
3 ~~Division 15 of the Public Resources Code. If the commission~~
4 ~~amends the existing guidelines, or adds a separate guideline,~~
5 ~~pursuant to this section, the commission shall ensure that any gains~~
6 ~~or losses from the sale or reassignment of any interest in real~~
7 ~~property acquired by the electrical corporation that is subject to~~
8 ~~the amended or new guideline, are allocated between customers~~
9 ~~and shareholders proportionately to the risks involved.~~

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